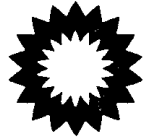




Steve Marshall
President, Alaska



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BP Exploration (Alaska) Inc.
900 East Benson Boulevard
P.O. Box 196612
Anchorage, Alaska 99519-6612
(907) 564-5422

December 13, 2001

Mr. Randy Bates
State of Alaska, Division of Governmental Coordination
Office of the Governor
P.O. Box 110030
Juneau, Alaska 99811-0030

Comments on October 1, 2001 Draft Proposed Alaska Coastal
Management Program Implementation Regulations (6 AAC 50)

Dear Mr. Bates:

Please consider the following comments on the proposed consistency regulations for the Alaska Coastal Management Program (ACMP). BP Exploration (Alaska) Inc. (BPXA) recognizes the critical importance of the ACMP in the State's regulatory system. Accordingly, we have invested a significant effort to participate in this rule-making process over the past three years to help assure a reasonable regulatory environment for our operations.

BPXA previously submitted comments on the first draft of proposed changes to ACMP regulations on February 28, 2001. BPXA has also participated in the series of meetings hosted by the Division of Governmental Coordination (DGC) to explain how public comments submitted in February 2001 have been treated in the October 1, 2001 proposed regulations.

In addition, BPXA has participated in the review process with the Alaska Oil and Gas Association (AOGA), and worked with AOGA and its member companies to formulate AOGA's comments. We fully support and endorse those comments being submitted by AOGA on needed changes to the proposed regulations. To complement AOGA's comments, we offer the following:

1. The proposed regulations do not provide a predictable process for project review. The proposed regulations provide for a maximum of flexibility with a minimum of schedule discipline. Thus, an applicant cannot reasonably predict key milestones of the process, nor when a Final Consistency Determination

can be expected and permits issued. In contrast to current regulations, there are more opportunities to “stop the clock”, and there is no requirement for a prompt determination of completeness and initiation of the review process. Schedule discipline and strong management are absent under the proposed regulations. This unduly burdens projects with uncertainty and with schedule risk.

2. The proposed regulations codify the existing practice of imposing “homeless stipulations” on project permits. By allowing homeless stipulations to be added to the consistency determination and then requiring these to be incorporated in resource agency permits, without regard to those agencies’ statutory or regulatory authorities, the proposed regulations have given the consistency determination the status and effect of a permit, contrary to legislative intent and authorization. This results in unpredictable implementation of enforceable coastal policies, and is another source of project risk.
3. The proposed regulations do not provide clear guidance regarding the applicability of the program and the scope of review. As currently proposed, a project will be subject to consistency if it may have a “direct or indirect effect on any coastal resources or uses”. This is a very low threshold; we urge that the requirement for review be based on uses or activities with a direct and significant effect on coastal resources or uses. In addition, the current regulations do not provide clear guidance that the consistency review is applicable only within the program-approved coastal zone boundaries. This unpredictability regarding scope and applicability is yet another source of uncertainty and risk for projects.

Alaska is at an important crossroads with respect to its permitting system, and reform is needed to sustain a regulatory climate conducive to investment. This means a regulatory system must be established that provides clarity and predictability with regard to schedule and process, while still providing rigorous environmental standards. We understand DGC’s funding mandate for regulatory changes was limited to only address 6 AAC 50. Even with this constrained mandate, the opportunity for reform has not been accomplished in this first step.

Historically, the ACMP regulations at 6 AAC 50 have provided the only mechanism for coordinating permitting for a project; at the same time those regulations provided a process for evaluating coastal consistency. It is this duality of purpose and scope that significantly detracts from accomplishing both needs. In AOGA’s and our comments, we thus recommend limiting the scope of 6 AAC 50 to certification of consistency.

Mr. Bates
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At the same time, we also urge the state to develop specific regulations for a well-managed, disciplined and predictable permit process that benefits not only projects in the coastal zone but also projects throughout the state. We believe that this will require statutory changes to both ACMP and individual state permitting programs, particularly those of the Alaska Department of Environmental Conservation. One of the major problems to be addressed is the lack of synchronization between ACMP and individual permitting programs such as air and water quality, and pipeline right-of-way leasing.

In summary, we urge that DGC invest the time needed to assure our comments on proposed 6 AAC 50 regulations, as well as AOGA's comments, are carefully considered. The critical importance of these regulations underscores the need to continue to work to develop a reasonable, predictable, and efficient consistency review program. One means to accomplish this is the negotiated rule-making suggested by AOGA, focusing on making 6 AAC 50 a straightforward certification process. This would then lay the ground work for more sweeping regulatory reform.

We trust today's comments will assist DGC in making necessary changes to these very important regulations.

Sincerely,

A handwritten signature in cursive script that reads "Steve Marshall". The signature is written in dark ink and is positioned above a horizontal line.

Steve Marshall

cc:

Mr. Patrick Galvin, Director, Division of Governmental Coordination
Ms. Michele Brown, Commissioner, Department of Environmental Conservation
Mr. Frank Rue, Commissioner, Department of Fish and Game
Mr. Pat Pourchot, Commissioner, Department of Natural Resources
Ms. Judith Brady, Executive Director, Alaska Oil and Gas Association